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SUBJECT: BOTSWANA TELECOMMUNICATIONS INDUSTRY
ANALYSIS: LIBERALIZATION AND PRIVATIZATION JEOPARDIZED
BY POLITICAL INTERFERENCE

This cable is classified by Ambassador Joseph Huggins
for reasons 1.5 (a) and (d)

11. (C) Summary. This cable is an analysis of the Botswana telecommunications industry's efforts at greater liberalization and the potential consequences of political interference in the nation's regulatory framework. The Botswana Telecommunications Authority (BTA) held a stakeholders' workshop in early February to publicly debate the further liberalization of the industry to include such services as Voice-over Internet Protocol (VoIP), which optimistically could be implemented by the end of the year. However, this workshop has been overshadowed by Parliament's decision to amend the 1996 Telecommunications Act to place licensing and budgetary authority for the BTA under control of the Minister of Communications, Science and Technology, thereby undermining its independence as a regulator. The amendment appears to be driven by political and personal aims rather than sound regulatory policy, and could have serious negative consequences for the attraction of foreign direct investment (FDI) into Botswana. Despite this political interference, France Telecom is reportedly interested in a strategic partnership with the government-owned Botswana Telecommunications Corporation (BTC), if and when it is privatized. End Summary.

Brief History of Liberalization

12. (U) In April 1980, the Botswana Parliament approved the BTC Act, establishing a monopoly parastatal company. Following repeated calls for service and cost improvements, the then Ministry of Works, Transport and Communications directed Mr. Moatshe Joseph Moatshe, the then Deputy Permanent Secretary, to lead a project on sector reform in 1992. After attending several conferences on telecommunications liberalization, including a regional one sponsored by USAID in Namibia in 1993, the Ministry paid a consultant to prepare a draft telecommunications bill.

13. (U) In August 1996, Parliament adopted the results of that consultancy, the Telecommunications Act, which established the BTA as an independent regulator. It also passed the BTC Amendment Act, abolishing BTC legal monopoly for the provision of all public telecommunications services. The BTA was granted the authority to license all telecommunications operators. The BTA immediately made the BTC the sole provider of

fixed line voice services. In 1998, the BTA also issued two mobile service licenses to Orange, which is majority owned by France Telecom, and Mascom, which is now a wholly-owned Botswana citizen company. Since then, the BTA has issued over 20 Internet Service Provider (ISP) licenses, as well as several very small aperture terminal (VSAT) licenses for data transmission.

14. (SBU) In July 2001, President Festus Mogae publicly stated his desire to privatize BTC, but plans for the implementation of this commitment have proceeded slowly. However, Parliament is expected to adopt a Privatization Master Plan during the 2005/6 fiscal year, which could lay the groundwork for BTC's privatization. Although no final deal structure or date have been announced, it is widely believed that the government favors a strategic partnership approach to the privatization of BTC. Mr. Yannick Bordeu, the Managing Director of Orange, which is 49 percent owned by France Telecom, told EconOff that France Telecom would be interested in such partnership should Botswana proceed with BTC's privatization.

Further Liberalization

15. (U) Although the market was partially liberalized through the 1996 Act, a number of areas merit further liberalization. This would introduce of VoIP and fixed line voice competition on a service or infrastructure basis. BTC still dominates the market and provides all international voice services out of Botswana. To deal with rising public concerns about the inefficiencies of BTC, the lack of service, and the high costs associated with telecommunications, BTA commissioned a report in 2004 on the further liberalization of the market. It presented the draft results to a public stakeholders' workshop in early February 2005. The draft report included multiple recommendations, ranging from the need for greater speed in the process of liberalization to the necessity to introduce VoIP services. The draft also addressed issues such as a universal access policy, by which services are provided to rural areas that are not economically viable, given the low population density of Botswana.

16. (SBU) The Chief Executive of BTA, Mr. Moshe Lekaukau, told EconOff that the next step will be to present the final report, including public input incorporated from the workshop, to the BTA Board of Directors in April 2005. The draft policy will then be submitted to the Minister of Communications, Science and Technology for adoption by the Cabinet and ultimate passage by Parliament.

17. (SBU) When asked to put a timeline on further liberalization, Mr. Lekaukau said he hoped Cabinet would move quickly to adopt a new policy, but thought the best-case scenario would have it done by the end of the year. Mr. Lekaukau noted that the speed of adoption would depend in part on the timeline for the privatization of BTC. He emphasized that he would like to see the privatization and liberalization occur simultaneously, a sentiment echoed by Mr. Bordeu from Orange.

18. (SBU) But there is a clear divergence of interests between BTC and private industry. BTC prefers that the privatization precede the liberalization in order for it to rebalance its structure and pricing schemes to limit any potential adverse impacts on the valuation of the company through premature liberalization. Private industry attendees at BTA's stakeholder workshop, however, voiced their demand for more immediate action on liberalization.

¶9. (U) The BTA has consistently been recognized as a model of regulatory efficiency and independence by the telecommunications industry. In 2001, the International Telecommunications Union (ITU), published a report entitled, "Effective Regulation Case Study: Botswana 2001." The report explicitly states: "BTA is one of the few regulatory bodies that enjoys complete freedom in licensing operators and in establishing and financing its operational budget, its level of independence and effectiveness may develop as a world model."

¶10. (SBU) But this independence was directly undermined by Parliament's decision in December 2004 to amend the 1996 Act, and place financial and licensing decision-making power under the direct authority of the Minister of Communications, Science and Technology. This amendment eliminates BTA autonomy. In her speech to Parliament in proposing the amendment, Minister of Communications, Science and Technology Pelonomi Venson said, "The BTA has performed quite well since its inception, leading to a major improvement in telecommunications services." But she followed this statement by saying, "Some of the powers currently vested in the BTA are of such a nature that far-reaching decisions could be taken without sufficient policy consultation with Government. Of specific concern are the powers to license additional fixed line and cellular operators. Any decision on these two aspects would greatly impact on the structure and viability of the ICT sector, and could place major public and private investments at risk."

¶11. (SBU) However, the amendment could cause precisely what its publicly presented rationale intended to prevent. It would undermine the BTA's autonomy and jeopardize Botswana's efforts to attract foreign direct investment. In particular, it might impede the privatization of BTC, provoking concern among investors about potential political interference in the regulator and the lack of separation from the operator, since BTC is wholly-owned by the government. The first recommendation of the 2004 Global Symposium for Regulators calls for "an effective regulator separated from the operator and insulated from political interference."

Public Reactions to the Amendment -----

¶12. (U) Initial public reactions to the amendment have been overwhelmingly negative. The weekly periodical "The Sunday Standard" wrote an editorial saying the amendment "raises new doubts about the government's sincerity on attracting foreign investments."

¶13. (C) The country's leading private sector association, the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM), intends to submit a formal complaint to the government about the amendment. The President of BOCCIM, Iqbal Ebrahim, told EconOff that the amendment jeopardizes the successful privatization of BTC as well as the integrity of the regulator. Ebrahim added that BOCCIM would push the government to immediately adopt its draft Competition Policy, which is waiting on the Cabinet for action. This would provide a basis to challenge the amendment. He also expressed concern about the impact the amendment could have on potential foreign investors broader assessments of Botswana as a destination for FDI.

¶14. (SBU) Mr. Bordeu, the Managing Director of Orange,

told EconOff that the decision to amend the Act was unfortunate and that an independent regulatory framework is essential. But he expressed optimism that liberalization would proceed unhindered by the amendment and said he hoped the amendment would be overturned. He could not comment on how the amendment might affect France Telecom's interest in BTC.

Political Interference Complicates BTA Mission

¶15. (C) Despite the public presentation of the amendment as a prerequisite for enhanced efficiency, a picture of political interference, intrigue, and ruling party factionalism has emerged as being the prime reasons why Parliament amended the 1996 Act.

¶16. (SBU) Several members of the opposition in Parliament, as well as some members of what is known as the Kedikilwe faction within the Botswana Democratic Party (BDP), publicly mused about the rationale behind the Ministry's decision to amend the 1996 Act during discussion in Parliament. Mmadinare constituency's MP Ponatshego Kedikilwe, a veteran BDP politician, but not necessarily a supporter of the Mogae government, asked for a compelling explanation as to why the amendment was being advanced, saying, "We want to know what has gone wrong so that we can be in a position to explain to Batswana."

¶17. (C) Opposition MP (for the Botswana National Front BNF) Mephato Reatile, representing Ngwaketse West, told EconOff that the decision to amend the Act was aimed at punishing Mr. Lekaukau for his allegiance to the Kedikilwe faction within the ruling party. But another, and possibly more worrisome rationale was advanced by Mr. Lekaukau himself.

¶18. (C) In a scathing indictment of current parliamentarians, Mr Lekaukau admitted in a conversation with the EconOff that the decision to punish him was the direct result of his unwillingness to undermine the nation's interest for the sake of one individual's personal benefit. He appeared to be referring to the former Minister of Communications, Science and Technology, Mr. Boyce Sebetela, who is the alleged architect of the amendment. Mr. Lekaukau asserted that the Cabinet was ignorant on telecommunications issues and uninformed in the bulk of its decisions on such matters, and said several members had since told him they were not properly briefed on the subject, nor of its consequences prior to the adoption of the legislation.

¶19. (C) Mr. Lekaukau went on to say that the stakeholders' workshop held by BTA was very successful in raising awareness about the amendment's consequences, and expressed hope that the rising public anger against the amendment would lead to its repeal.

¶20. (C) The indictment by Mr. Lekaukau is backed by separate public allegations of misconduct by former Minister Sebetela, which were reported by the opposition Botswana Congress Party (BCP) to the Directorate of Corruption and Economic Crime (DCEC) in October 2004. The BCP alleged that Sebetela used his position to award tender contracts to a company, PC Net, in which he is a shareholder and for whom his wife works. Opposition MP candidate for Gaborone Central of the Botswana National Front (BNF) wrote an editorial seconding this complaint claiming, Sebetela "would like the public to believe that there is nothing wrong with him, in his private capacity, doing business with companies that operate within the ambit of policies and regulations set by his/her Ministry, or negotiating business deals with a department under his portfolio. Contrary to what he says he would actually like to veto the decisions of the BTA." It

now appears that Sebetela has succeeded, albeit after his removal as Minister.

Conclusions

¶21. (C) It appears unlikely that the 1996 Act's amendment will be overturned despite the public outcry. Moreover, the further liberalization of the telecommunications industry appears to be proceeding despite the amendment, as the business community is clamoring for the introduction of new products and services with faster processing times and lower costs. However, in spite of the revelation that France Telecom is potentially interested as a strategic partner in the privatization of BTC, the amendment, if it signals a shift away from transparent regulatory policy, could inhibit investment into Botswana. If the lack of transparency leads to protracted legal challenges, which has been neighboring South Africa's experience, foreign investors may change their opinion of Botswana as the model of political stability and integrity and begin to view Botswana as a political risk. Since good governance is Botswana's principal selling point for foreign investors, such a shift would have very negative consequences for the country's growth prospects.

HUGGINS